

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)
)
EASTERN LIVESTOCK CO., LLC) Case No. 10-93904-BHL-11
)
Debtor.)

**MOTION FOR THIRD EXTENSION OF MAY 2, 2011 BAR DATE
FOR FILING OF THE GIBSON TRUSTEE'S PURCHASE MONEY CLAIMS**

Kathryn L. Pry, chapter 7 trustee of the bankruptcy estate of Thomas P. Gibson and Patsy M. Gibson (the "Gibson Bankruptcy Estate"), Case No. 10-93867-BHL-7A (the "Gibson Trustee"), by counsel, for her *Motion for Third Extension of May 2, 2011 Bar Date for Filing of the Gibson Trustee's Purchase Money Claims* (this "Motion"), states as follows:

1. The Gibson Trustee was appointed on December 1, 2010 (the "Gibson Petition Date") and continues to investigate and identify assets of Thomas P. Gibson and Patsy M. Gibson (the "Gibsons").
2. On January 24, 2011, this Court entered the *Order Granting Trustee's Emergency Motion Regarding Payments on Debtor's Cattle Sales* (the "Order") [Docket No. 234]. The Order establishes a bar date of May 2, 2011, for filing of all "Purchase Money Claims". Among other things, paragraph I. of the Order provides that any person that holds or wishes to assert a Purchase Money Claim must file a proof of claim, together with all supporting documentation, on or before 11:59 P.M. on May 2, 2011.
3. The Order authorized the Trustee to complete the sale of cattle free and clear of liens, claims, encumbrances and interests pursuant to Bankruptcy Code § 363 and to accept payment of purchase money "Purchase Money" with all liens, claims, encumbrances and interests attached thereto and to establish a segregated account for the purpose of holding the

Purchase Money. The Order defines “Purchase Money Claims” as any lien, claim, encumbrance or interest that may be asserted against the Purchase Money. The Gibson Trustee believes that the claims she may assert against the Debtor constitute Purchase Money Claims as defined therein.

4. Additionally, the Court’s order of March 31, 2011 established a bar date for filing all claims of May 2, 2011. While the Eastern Livestock Trustee’s Motion acknowledges that the Court previously set a bar date for Purchase Money Claims, it does not except Purchase Money Claims from the operation thereof.

5. The Gibson Trustee filed her *Motion for Extension of May 2, 2011 Bar Date for Filing of the Gibson Trustee’s Purchase Money Claims* [Docket No. 473] and the Court entered the *Order Granting Motion for Extension of May 2, 2011, Bar Date for Filing of the Gibson Trustee’s Purchase Money Claims* on May 13, 2011 [Docket No. 495] extending the deadline for filing the Gibson Trustee’s Purchase Money Claims and its Proof of Claim to August 1, 2011. The Gibson Trustee then filed its *Motion for Second Extension of May 2, 2011 Bar Date for Filing of the Gibson Trustee’s Purchase Money Claims*, the Trustee and the Gibson Trustee agreed to a 90-day extension, and the Court entered the *Order Approving Agreed Entry Granting Motions for Additional Extensions of May 2, 2011 Bar Date for Filing Claims and Purchase Money Claims*.

6. Despite extensive discovery efforts, the Gibson Trustee has been unable to completely track all of the various cattle transactions of the Gibsons. Additionally, because claims that could be filed by First Bank and Trust Company (“First Bank”) may involve the same Purchase Money, the Gibson Trustee and her counsel have joined in the discovery efforts of First Bank.

7. These efforts include numerous inquiries to the Eastern Livestock Trustee seeking information regarding transaction that may have involved cattle owned by the Debtors. The Gibson Trustee and her counsel have met with representatives of DSI on at least two occasions and reviewed various documents that may be relevant to the Gibson Trustee's ability to determine whether or not she has a claim to the funds on deposit in the Eastern Livestock Trustee's segregated account. On June 23, 2011, counsel for First Bank and the Gibson Trustee visited Eastern Livestock and requested more than two dozen boxes of documents. DSI made these documents available for scanning and imaging. By October 3, 2011, First Bank and the Gibson Trustee had received 31,069 documents (96,428 pages). First Bank, in connection with the Gibson Trustee, has been diligently reviewing and is continuing to review these do. In addition, First Bank and the Gibson Trustee are waiting for two additional boxes from Eastern Livestock's offices that are currently in the possession of the FBI and to which First Bank and the Gibson Trustee have not yet obtained access.

8. Additionally, First Bank in connection with the Gibson Trustee, has retained a computer forensic specialist to review and analyze the computer hard drive of Patti Turley, who handled much of the Gibsons' personal cattle business. Counsel for First Bank contacted AC Forensic for a copy of Ms. Turley's hard drive, and AC Forensics requested some method of identifying Ms. Turley's hard drive. Counsel for First Bank then contacted counsel for the Trustee, who permitted counsel for First Bank to contact Elizabeth Lynch of DSI directly. Ms. Lynch obtained a static photo image of the hard drive (which contained the serial number) and emailed it to counsel for First Bank. First Bank's computer forensic specialist then used the static photo image (and serial number) to obtain from AC Forensics a copy of the corresponding imaged hard drive that AC Forensics had created prior to the commencement of this bankruptcy

proceeding. On October 31, 2011, First Bank learned from its computer forensic specialist that the image of the hard drive that it received from AC Forensics does not include Patti Turley's profile, but instead includes profile information for another person. First Bank, therefore, will need to obtain a separate hard drive image for Patti Turley that will then need to be analyzed by First Bank's computer forensic specialist.

9. In addition to joint discovery efforts with First Bank, the Gibson Trustee continues in her investigation of whether the Gibson Bankruptcy Estate has a Purchase Money Claim.

10. This Motion is not being made for purposes of delay or any other improper purpose.

11. Based on the complexities of the transactions involved and the need for additional discovery as set forth above, the Gibson Trustee requests an extension of ninety (90) days to the deadline to file its Purchase Money Claims previously set in this Court's Orders of January 24, 2011, March 31, 2011, and August 11, 2011 and previously extended to October 31, 2011.

WHEREFORE, the Gibson Trustee, by counsel, respectfully requests that the Court enter an Order extending the May 2, 2011 deadlines established by its Orders of January 24, 2011, March 31, 2011, and August 11, 2011 for her to file her Claims and Purchase Money Claims for an additional period of ninety (90) days and for all other just and proper relief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2011, a copy of the foregoing *Motion for Third Extension of May 2, 2011 Bar Date for Filing of the Gibson Trustee's Purchase Money Claims* was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on October 31, 2011, a copy of the foregoing *Motion for Third Extension of May 2, 2011 Bar Date for Filing of the Gibson Trustee's Purchase Money Claims* was mailed by first-class U.S. Mail, postage prepaid, and properly addressed to the following:

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